

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

FOLSOM CORDOVA UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2013020216

ORDER GRANTING REQUEST FOR
CONTINUANCE AND SETTING
MEDIATION, PREHEARING
CONFERENCE AND HEARING
DATES

On July 17, 2013, the parties filed with the Office of Administrative Hearings (OAH) a joint request to continue the dates in this matter based upon Student's unavailability for the currently scheduled prehearing conference (PHC) and his intent to seek legal representation.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Granted. All dates are vacated. This matter has been pending since February 5, 2013, when Student's advocate originally filed a request for due process. Although OAH does not favor continuances when a matter has been pending for a long period of time, Student has established good cause for a continuance. Student will be out of town during the scheduled PHC. Further, Student indicates that he is no longer represented by his advocate,

and is attempting to secure legal representation. The Folsom Cordova Unified School District (District) agrees to the continuance. This matter has been delayed due to the failure of Student's previous advocate to properly serve the District with the original complaint. Additionally, Student's previous advocate failed to comply with the March 20, 2011 order granting the District's request to re-set timelines and ordering Student to properly serve the District and to provide OAH with a copy of the complaint with poof of service within 10 business days. On June 12, 2013, Student's advocate filed an amended complaint with OAH listing the correct address for the District and a proof of service indicating service of the amended complaint on District's counsel. This matter shall be set on the following dates:

Mediation: August 6, 2013 at 9:30 AM

Prehearing Conference: August 19, 2013 at 10 AM

Due Process Hearing: September 4, 2013 at 9:30 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

Dated: July 18, 2013

/s/

THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings